



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/589,536 Group Art Unit: 3686
Filing Date: August 16, 2006 Examiner: Edward B. Winston, III
Appellants: Klaus ABRAHAM-FUCHS et al.
Title: METHOD FOR EVALUATING THE QUALITY OF
ELECTRONICALLY STORED, PARTICULARLY MEDICAL,
KNOWLEDGE DATA
Attorney Docket: 32860-001075/US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop AF

September 24, 2010

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Appellant hereby requests review of the June 24, 2010 Final Rejection of this application. A Notice of Appeal and fee in the amount of \$540.00 is filed concurrently herewith. The Commissioner is also authorized to charge any additional fee or credit any overpayment associated with this communication to Deposit Account No. 08-0750.

REMARKS

Claims 1-19 and 22-30 are pending in the current application. Claims 1 and 29 are the independent claims.

The June 24, 2010 Final Office Action rejects claims 1-19 and 22-30 under 35 U.S.C. § 102(e) as being anticipated by US Patent Publication No. 2004/0122719 ("Sabol").

Appellants seek the panel's review of the rejection of the claims due to legal and factual deficiencies in the outstanding Office Action.

Legal/ Factual Deficiencies:

Claims 1-19 and 22-30 are rejected under 35 U.S.C § 102(e) which states *inter alia*,

A person shall be entitled to a patent unless...the invention was described in (1) an application for patent...by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent.¹

"A claim is anticipated [under 35 U.S.C § 102(e)] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."²

Claim 1 recites *inter alia* "**correlating** quality data with the knowledge data stored in the database" where "the **quality data** indicates a **content quality** of the **knowledge data** stored in the database." Initially, Appellants note that Sabol relates to forecasting future resource needs use of medical modalities or other medical services based on existing data in an "integrated knowledge base 12."³ Clinical and non-clinical data are stored in and accessed from an "integrated knowledge base 12" by physicians to fulfill their tasks, such as diagnosis and treatment of patients in

¹ 35 U.S.C § 102.

² *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131.

³ See Abstract of Sabol.

Sabol.⁴ This data in the integrated knowledge base 12 includes prescribable data sources such as “blood tests” or “urine tests,” electrical data acquisition such as “ECG,” and medical imaging techniques.⁵

The Examiner cites a part of Sabol, which further describes different types of data that may be included in the integrated knowledge base 12, and which is limited to patient record data.⁶ The Examiner also cites an other part of Sabol, which describes a method for how data from different sources, such as elements 98, 100, 102 in Fig. 7 of Sabol are processed on computing resources 20 via software 22 and made available by storage in the integrated knowledge base 12.⁷

Hence, **Sabol merely relates to storing medical data from various sources in to an integrated knowledge base**, which is then used to **predict future medical needs**, such as an amount of medical machines or medication. Therefore, even assuming *arguendo* that the Examiner relies on the entirety of the existing data stored in the integrated knowledge base 12 of Sabol to disclose the above limitation of claim 1 (which Appellants do not admit), such data could only be interpreted, at best, to disclose the “knowledge data” of amended claim 1. This is because, Sabol still fails to disclose any type of **secondary data** being stored in the integrated knowledge base 12 that is **generated from the use or application of the existing data** of the integrated knowledge base 12, and which indicates a **reliability or accuracy of the existing data** of the integrated knowledge base 12. As such, Sabol fails to disclose “**correlating** quality data with the knowledge data stored in the database” where “the **quality data** indicates a **content quality** of the **knowledge data** stored in the database,” as recited in claim 1.

In response to the above arguments, the Examiner initially states that claim 1 recites “merely a database, whether is stores knowledge data or quality data.”⁸ Appellants find such a conclusion to be clearly erroneous as claim 1 is method which actively recites “storing” and “correlating” steps, with the “correlating” step including

⁴ See Figs. 1 and 7 of Sabol.

⁵ See Para. [0001-0004, 0048-0049, 0066] of Sabol.

⁶ See Para. [0061] of Sabol and Pg. 3 of the June 24, 2010 Office Action.

⁷ See Para. [0079] of Sabol and Pg. 3 of the June 24, 2010 Office Action.

⁸ See Examiner's response detailed on Pg. 13 of the June 24, 2010 Final Office Action.

multiple sub-steps.⁹ Therefore, the subject matter of claim 1 is clearly not merely directed to a database, but instead a method for generating quality data which indicates a content quality of the knowledge data.

Further, the Examiner argues that a “general detection string” of Sabol may disclose the above limitation of claim 1.¹⁰ The “general detection string” is disclosed to “identify relevant data or relationships which were not specifically requested” and “correlate new data in accordance with relationships identified by the data processing system or integrated knowledge base.”¹¹ The Examiner relies on the identified “relationships” of Sabol to disclose the “**correlating** quality data with the knowledge data” step of claim 1 and relies on the “relevant data” of Sabol to disclose the “quality data [which] indicates a **content quality** of the **knowledge data**.”¹² However, the “relationships” in Sabol only relate to “grouping to identify risks, potential treatments, financial management options” or “new ways to diagnose or treat patients such as based upon recognizable trends or correlations, analysis of success or failure rates, statistical analyses of patient care results, and so forth.”¹³ **Therefore, the “relationships,” “new data” and/or “relevant data” of Sabol only relate to comparing the data in the knowledge base to determine new trends within the data, and do not relate determining a content quality or reliability of the data itself.**

As a result, Sabol also fails to disclose that the “quality data” is stored “**during and after access** to the knowledge data”, correlating quality data to “**an application of the knowledge data,**” and “the quality data **automatically being provided** to the user, **upon the user accessing the knowledge data,**” as recited in claim 1.

For at least the foregoing reasons, claim 1 is patentable over Sabol. Independent claim 29 is at least somewhat similar to claim 1 and therefore patentable for at least somewhat similar reasons. Dependent claims 2-19, 22-28 and 30 are at least patentable by virtue of their dependency on one of independent claims 1 and 29.

⁹ See claim 1 of Appellants’ March 23, 2010 response.

¹⁰ See Examiner’s response detailed on Pg. 13 of the June 24, 2010 Final Office Action.

¹¹ See Para. [0318] of Sabol.

¹² See Examiner’s response detailed on Pg. 13 of the June 24, 2010 Final Office Action.

¹³ See Para. [0318-0319] of Sabol.

Appellants, therefore, respectfully request that the rejection to the above claims under 35 U.S.C. § 102(e) be withdrawn.

CONCLUSION

Appellant respectfully requests that the Panel reconsider and withdraw of all the rejections of record, and allow the pending claims.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 CFR §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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